IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 24285 of 2004

Between:

P.Narsimulu S/o.Chennaiah,

Aged 50 years, Occ: Driver, E.No.252778,
R/o.63-50, Shivajinagar, Sangareddy, Medak District.

..... PETITIONER

AND

1 The Regional Manager, Medak Region APSRTC,

Sangareddy, Medak District.
2 The Depot Manager, APSRTC, Bus Depot.,

Sangareddy, Medak District.
3 The Depot Manager, APSRTC Bus Depot,

Narayankhed, Medak District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Certiorari, quash the impugned order of removal Proc.No.P3/2(9)/03SRD Dt.2.1.2004 and also the 1st respondent Proc.No.PA/675(11)/04-RM.MR Dt.6.7.2004 in so far as treating the petitioner afresh, not granting the back wages, treating the removal period as not on duty as arbitrary, unjust, in violation of Art.14 ,16,21 of the constitution of India and consequently direct the respondents to extend all consequential benefits including back wages in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD, Standing Counsel.

The Court made the following:

ORDER:

The petitioner is working as a driver in the respondent Corporation. He joined in the service of the Corporation in the year 1986 and his services were regularized with effect from 01.09.1987. On the ground that the petitioner caused an accident on 30.06.2003 near Kukatpally, charges were framed against him. In a regular enquiry, he was imposed a punishment of removal from service through the order of the 2nd respondent dated 02.01.2004.

2. The petitioner preferred an appeal before the 1st respondent and the 1st respondent was pleased to set aside the order of removal through the order dated 06.07.2004 and directed reinstatement of the petitioner into service with immediate effect. The 1st respondent further mentioned in that order that the petitioner shall be treated as a fresh driver duly putting him under minimum of basic apart from treating the out of service period as not on duty. Therefore, the petitioner approached this Court seeking a writ of certiorari by quashing the impugned proceedings dated 02.01.2004.

3. The learned counsel for the petitioner submitted that the wording used by the 1st respondent as 'reinstatement' and the further direction that the period from the date of removal till the date of reinstatement shall be treated as not on duty is a clear indication that the concerned authority was intending to treat it as a continuity of service but by mistake it was mentioned as a fresh appointment. The learned counsel for the petitioner drew the attention of this Court through the Judgment of the Division Bench of this Court in ***Depot Manager, A.P.S.R.T.C, Kurnool Depot vs. S.S.Reddy Jamal Reddy*** wherein the Division Bench held as follows:

> "It is now a well-settled principle of law that a judgment cannot be read as a statute and must be read reasonably and in its entirety. The word 'reinstatement' carries with it a definite meaning viz., the workman shall be deemed to be continuing in service without any break whatsoever. The logical corollary of it would be that he would continue in service as if his services have never been terminated. The Court while granting discretionary relief may or may not grant back wages although, normally, the rule is when a direction for reinstatement is given back wages is also directed therein. Thus, the direction for reinstatement of the workman must be read in the aforementioned context that except the back wages and attendant benefits, he was entitled to all other benefits to which he became entitled to by way of his reinstatement without break in service."

4. The learned counsel for the petitioner also placed a decision in an unreported judgment of a Division Bench of this Court in ***Vice Chairman & Managing Director, A.P.S.R.T.C. Mushirabad, Hyderabad vs. N.Ragareddi*** covered by Writ Appeal No.395 of 1996, while confirming the judgment of the learned Single Judge of this Court in W.P.No.11182 of 1992, held as follows:

> "When a certain person is reinstated with back wages or without back wages, he has to be above his next junior and placed in the time scale of pay with all admissible emoluments including allowances at the level of fitment after reinstatement."

5. The learned counsel for the petitioner, therefore, submitted that when the 1st respondent used the word 'reinstatement' it shall mean as taking him into the service and not a fresh appointment. In a judgment rendered by this Court in W.P.11239 of 2004, following the judgment of the Division Bench in W.A.No.395 of 1996, dated 19.06.1996, it was held that in view of the wording used by the 1st respondent as 'reinstatement' the period from the date of removal to the date of 'reinstatement' shall be treated as on duty. The learned counsel for the petitioner by taking the aid of the above decisions requested this Court to hold that the reinstatement made by the 1st respondent is not a fresh appointment, but, it is nothing but reinstatement of the petitioner into service.

6. The learned counsel for the respondents opposed the submissions made by the learned counsel for the petitioner and

submitted that it shall be treated only as a fresh appointment as on the simple ground of the 1st respondent using the word 'reinstatement' shall not be given the liberal interpretation and it shall be restricted by taking into consideration the view of the authority in totality without isolating the word 'reinstatement'.

7. But in the light of the judgments of a Division Bench and a Single Bench of this Court and in view of the circumstances explained by the counsel for the petitioner, the order of the 1st respondent is directed to be modified as follows:

"The petitioner is reinstated into service without back wages. The period from the date of removal from service till the date of reinstatement shall never be treated as continuity of service but whatever service he rendered prior to the date of removal shall be added to his service for the purpose of extending the benefits to which the petitioner is entitled according to the rules".

8. The Writ Petition is accordingly disposed of. No order as to costs.

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27.12.2004

dsr

To:

1. The Regional Manager, Medak Region,

APSRTC, Sangareddy, Medak District

2. The Depot Manager, APSRTC, Bus Depot,

Sangareddy, Medak District

3. The Depot Manager, APSRTC,

Bus Depot, Narayankhed, Medak District

4. Two CD copies.